



STATE BOARD OF EQUALIZATION

BOARD PROCEEDINGS DIVISION (MIC 80)
450 N STREET, SACRAMENTO, CALIFORNIA
(P O BOX 942879, SACRAMENTO, CA 94279-0080)
Mr Augusta (916) 445-6493

JOHAN KLEES
First District May 1993

DEAN F. ANCAL
Second District Stockton

ERNEST J. DRONENBURG JR
Third District San Diego

KATHLEEN CONNELL
Controller Sacramento

JOHN CH'ANG
Acting Member
Fourth District, Los Angeles

E. L. SORENSEN JR
Executive Director

No. 97/42

July 8, 1997

TO COUNTY ASSESSORS,
COUNTY COUNSELS,
ASSESSMENT APPEALS BOARDS,
AND OTHER INTERESTED PARTIES

PROPERTY TAX RULE 135 HOMEOWNERS' PROPERTY TAX EXEMPTION

Following a scheduled public hearing on September 25, 1996, the State Board of Equalization adopted amendments to Property Tax Rule 135, Homeowners' Property Tax Exemption. The rule as amended became effective May 7, 1997.

Enclosed for your information is a final printed copy of the regulation.

If you have any questions regarding the content of this rule, please contact Mr. Lawrence A. Augusta (916) 445-6493. If you wish extra copies of this rule, please write to State Board of Equalization, Supply Publications, 3920 West Capitol Avenue, West Sacramento, CA 95691.

Sincerely,

E. L. Sorensen, Jr.
Executive Director

ELS:MAS
Enclosures

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization — Property Tax
Subchapter 2. Assessment
Article 3. Exemptions and Immunities

Rule 135. HOMEOWNERS' PROPERTY TAX EXEMPTION.

Reference. Sections 218, 218.5, 229, 253.5, 255, 255.1, 255.2, 255.3, 255.6, 255.7, 255.8, 275, 408, 504, 531.1, 531.6, 2190, 2192, 2611.6, 2615.5, Revenue and Taxation Code

(a) EXEMPTION CLAIMS.

(1) **DISTRIBUTING FORMS.** In addition to mailing forms to persons acquiring title and recording their ownership of their eligible dwellings, the assessor of each county shall make available to homeowners during the twelve months preceding the lien date for the next succeeding fiscal year, and the twelve months succeeding such lien date, to and including December 10 of the fiscal year, forms on which to claim the exemption for that fiscal year (1) by providing blank forms at the assessor's office, (2) by distributing supplies of blank forms to places throughout the county to which residents of the county have easy access, or (3) by a combination of these methods. The assessor need not send a new claim form upon the transfer of ownership in a property in any instance in which either spouse retains an ownership interest and otherwise continues to qualify for exemption.

(2) **WHEN CLAIMS ARE DUE.** A claim is timely filed if, on or before the April 15 immediately preceding the start of the fiscal year, it is delivered to the assessor's office or is properly addressed and mailed with postage prepaid. A post office cancellation mark of April 15 or earlier is conclusive evidence of timely filing by mail. The assessor may accept other proof which satisfies him/her that a claim was mailed on or before April 15, provided such proof is offered on or before April 15 of the following year.

A claim is filed late and an exemption of the lesser of five thousand six hundred dollars (\$5,600) or 80 percent of the taxable value of the dwelling shall be granted if the claim is delivered to the assessor's office or is properly addressed and mailed with postage prepaid between April 16 and December 10, inclusive, of the calendar year in which the claim was due. In determining when a claim is filed, Section 166 of the Revenue and Taxation Code may be applicable in some instances. Section 166 provides that a filing shall be deemed to be timely if it is sent by United States mail, properly addressed with postage prepaid, and is postmarked on or before the required date, or if other proof satisfactory to the assessor establishes that the mailing occurred on or before the required date.

A veteran including a disabled veteran who is filing for the veterans' exemption or disabled veterans' exemption on his/her principal place of residence for the first time or who was granted a veterans' exemption or disabled veterans' exemption on his/her principal place of residence in the immediately preceding year, may make a timely filing for the homeowners' exemption within 15 days after the assessor finds him/her ineligible for the veterans' exemption or disabled veterans' exemption and notifies him/her thereof. Those veterans not notified shall have until the next lien date to make a timely filing.

(3) **SIGNATURE OF CLAIMANT.** The signature of one spouse who is a co-owning occupant is valid for the other co-owning occupant spouse for the year of filing and for subsequent years. The signature of one co-owning occupant (non-spouse) is valid for other co-owning occupants for the year of filing and for subsequent years. The assessor may require the refiling of the claim by the other spouse if the spouse who signed the active claim has died or has established a principal place of residence elsewhere, but the assessor shall require the refiling of the claim by the other co-owner who has occupied the dwelling continuously if the co-owner (non-spouse) who signed the active claim has died or has established a principal place of residence elsewhere.

If a timely filed claim lacks a signature or any required information, the assessor may, for good cause, grant the claimant a single period of measurable length within which to cure the defect. Such period shall not extend beyond October 15 unless

RULE 135. (Continued)

the defect is found and the claimant is notified thereof after July 15, in which event it shall not extend beyond three months of such notification. If a claim is filed late, the assessor may allow the claimant up to six months, or three months after the claimant is notified, whichever is later, to cure the defect.

(4) **PROCESSING CLAIMS.** When a claim for exemption is received, the assessor shall note thereon the fiscal year to which the initial filing relates and the date of filing. He/she shall ascertain:

(A) Whether the claim was filed within the period prescribed by law;

(B) Whether the claimant was,

1. an owner of record, an owner whose title had not yet been recorded, or a purchaser under a contract of sale of the dwelling identified in the claim; or

2. an owner of shares or a membership interest in a cooperative housing corporation;

(C) Whether more than one claim has been filed on the same dwelling;

If the assessor finds the claimant eligible for the exemption for the initial fiscal year claimed, he/she shall enroll it, provided that he/she cannot then allow a veterans' or another homeowners' exemption against an assessment that relates, in its entirety or in part, to the same dwelling. He/she shall, however, allow the disabled veterans' exemption on the dwelling in place of the homeowners' exemption. If he/she finds that the claimant is not eligible for the initial year claimed, but is or will be eligible for a subsequent year, he/she shall treat the claim as if it had been filed initially for the subsequent year.

(5) **NOTICE OF UNAPPROVED CLAIMS.** After determining that an application for exemption is not approved, the assessor shall notify the claimant of the reason or reasons for nonapproval. Failure to receive such notice shall not entitle the claimant to the exemption.

(b) NOTICE OF CIRCUMSTANCES OF INELIGIBILITY.

(1) **MAILING FORMS.** The Notice of Circumstances of Ineligibility required by Section 2615.5 of the Revenue and Taxation Code and the Advice of Termination reply form are mailed annually by the county with the tax bill or copy thereof.

(2) **WHEN ADVICE OF TERMINATION IS DUE.** The assessor shall accept a signed Advice of Termination reply form or any signed statement of the claimant, co-owning spouse, or other co-owner, adequately describing the property for which the exemption was previously claimed, indicating that the property no longer qualifies for the exemption. The statement should state the lien date as of which the claimant no longer claims the exemption; but if it does not, the assessor, if otherwise unable to ascertain this information from the claimant, shall treat the statement as first applying to the lien date to which the next succeeding fiscal year from the date of filing the statement relates. Such a statement to the assessor shall be known as an "Advice of Termination," which satisfies the duty of the claimant to inform the assessor of ineligibility for the exemption.

An Advice of Termination is timely filed if, on or before December 10 of the fiscal year for which the exemption is to be first terminated, it is delivered to the assessor's office or is placed in the mail properly addressed with postage prepaid. A post office cancellation mark of December 10 or earlier is conclusive evidence of timely filing by mail. The assessor may accept other proof which satisfies him/her that an Advice of Termination was mailed on or before December 10, provided such proof is offered on or before December 10 of the following year.

(3) **PROCESSING ADVICES OF TERMINATION.** When an Advice of Termination is received, the assessor shall ascertain the fiscal year for which it is first effective. The assessor shall determine that the person signing the advice is the claimant or a co-owning spouse, claimant co-owner or other co-owner, or is otherwise authorized to sign the notice as guardian, administrator, or other legal representative.

(4) **TERMINATION.** After determining that the Advice of Termination is valid, the assessor shall terminate the exemption and, if the Advice of Termination has not been filed by December 10, make an escape assessment including a penalty of 25 percent of the escaped value.

RULE 135. (Continued)

(5) **ERRONEOUSLY FILED ADVICE OF TERMINATION.** If an Advice of Termination is filed in error, the assessor shall accept the written request of the person filing it or of an owner or co-owner that it be withdrawn and reinstate the exemption provided the request is received on or before January 1 of the next succeeding calendar year following the erroneous filing.

(c) VERIFICATION OF ELIGIBILITY.

When either the Franchise Tax Board or the State Board of Equalization notifies an assessor that a claimant whose principal place of residence has qualified as of January 1 of any year for an exemption has received the credit for qualified renters under the provisions of the Personal Income Tax Law for the taxable year embracing January 1 of the same year, the assessor shall investigate and, if appropriate, terminate the exemption and make an escape assessment under Section 531.6 of the Revenue and Taxation Code. If the claimant failed to file the Advice of Termination by December 10, a penalty of 25 percent of the escaped value shall be added to the assessment.

(d) ENTRY ON THE ROLL — IDENTITY OF CLAIMANT. The assessor shall identify the name of each claimant receiving the exemption on the roll or on a subsidiary public record arranged in parcel number order, or in another order, to which the public has access for the purpose of verifying the name of the claimant.

(e) MAINTAINING ASSESSOR'S RECORDS.

(1) **CLAIM FILE FORMAT.** The active and inactive claim files may be maintained in the form of original documents and papers, photocopies thereof, on microfilm, or in an electronic format through the use of electronic imaging technology. For purposes of this section, electronic imaging technology means a read-only access system of microphotography, optical disk, or any other technique that does not permit additions, deletions or changes to the original document. Reproductions from these systems shall be considered true copies of the original documents and associated records. The system may include, but is not limited to, any magnetic media, optical disk media, or other machine readable form.

(2) **ACTIVE CLAIM FILE.** The active claim file, which is composed of the claims or a record thereof of properties that received the exemption as of the last preceding lien date, shall be kept in current parcel number order, or in another order that permits ready retrieval of a claim or production of a true copy thereof, including a photocopy, microfilm, or reproduction from electronic imaging systems upon audit of the records. Information from a subsequent investigation pursuant to subsections (c) or (f) of this section shall be indicated on the claim or in other records.

The assessor shall compare each copy of a document transferring ownership to real property, received pursuant to Section 255.7 of the Revenue and Taxation Code, with the active claim file. When this comparison discloses the transfer of an eligible dwelling, the assessor shall:

(A) Retain the reference to the property in the active claim file where the new owner was also a previous co-owning occupant spouse who did not sign the claim but continues to be an owner or where a co-owning occupant who filed a separate claim continues to be an owner, or

(B) Delete the reference to the property from the active claim file and mail a homeowners' exemption claim form to the new owner, as required by Section 255.3 of the Revenue and Taxation Code.

(3) **INACTIVE CLAIM FILE.** The inactive claims, photocopies, microfilm, or reproduction from electronic imaging systems, shall be kept according to the last year the claim was allowed and arranged within a year's group in parcel number order, or in another order that permits ready retrieval of information or the production of a true copy respecting a claim upon audit of the records. Documents such as the Advice of Termination and information from a subsequent investigation pursuant to Subsections (c) or (f) of this section shall be attached to the claim or shall be kept in another order or in an electronic format that permits ready retrieval upon audit.

(4) **CLAIM NOT OPEN TO PUBLIC INSPECTION.** Homeowners' exemption claims, Advices of Termination, and related homeowners' exemption records containing social security numbers of claimants, both past and present, are not public documents and shall not be open to public inspection.

(5) **DESTRUCTION OF RECORDS.** Claims, Advices of Termination, and other records required in the administration of the exemption may be destroyed seven years after the lien date for the last year for which the exemption claim was active, provided that when such documents have been, photocopied, microfilmed, or stored in an electronic image format pursuant to subsection (e)(1) of this section, the originals may be destroyed three years after the lien date for the tax year for which they were received or made by the assessor.

RULE 135. (Continued)

(f) COOPERATIVE HOUSING CORPORATIONS. Annually prior to January 1 the assessor shall request on a form prescribed by the Board from every cooperative housing corporation containing dwelling units eligible for the exemption (1) a list of owners of shares or memberships entitling them to occupancy of a particular dwelling unit and (2) the apartment numbers or other designations of the dwelling units they are entitled to occupy as shown on the corporate shareholder or membership record for the lien date of the current year. The list shall also indicate which of the shareholders or members resided on the lien date in the designated dwelling units. The assessor shall compare this list with a similar list from the preceding lien date and determine:

1. Those dwelling units in which a newly listed shareholder or member is indicated to be residing on the lien date;
2. Those dwelling units in which a previously listed shareholder or member, who was also indicated to have been a resident, no longer is listed as a shareholder or member or, although so listed, no longer is indicated to be a resident.

With respect to the dwelling units in the first category, the assessor shall provide a claim form for the newly listed shareholders or members by April 1. With respect to dwelling units in the second category the assessor shall investigate to determine whether an active claim by the former shareholder or member in residence should be terminated.

If a cooperative housing corporation fails to respond to the assessor's request by March 15, the assessor immediately shall obtain the information requested by other suitable means and mail claim forms to new shareholders or members by April 1.

History Adopted December 12, 1968, effective December 19, 1968
 Amended February 24, 1969, effective February 28, 1969
 Amended June 18, 1969, effective June 24, 1969.
 Amended December 12, 1969, effective January 11, 1970
 Amended January 6, 1971, effective February 18, 1971.
 Amended February 17, 1972, effective April 2, 1972
 Amended March 20, 1975, effective April 26, 1975
 Amended October 14, 1980, effective October 27, 1980.
 Amended September 11, 1985, effective January 5, 1986.
 Amended February 2, 1994, effective March 4, 1994
 Amended November 21, 1996, effective April 7, 1997